

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXX

Petitioner

v

File No. 120760-001

Guardian Life Insurance Company
Respondent

Issued and entered
this 28th day of September 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On April 21, 2011, a request for external review was filed with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act (PRIIRA), MCL 550.1901 *et seq.* The request was filed on behalf of XXXXXX (Petitioner) by her dentist, XXXXXX.

The Petitioner is covered under a group dental plan that is underwritten by Guardian Life Insurance Company of America (Guardian). The Commissioner notified Guardian of the external review and requested the information used in making its adverse determination. After a preliminary review of the material submitted, the Commissioner accepted the case on April 28, 2011.

Because medical issues are involved, the Commissioner assigned the case to an independent review organization, which provided its analysis and recommendations on May 16, 2011. (A copy of the complete report is being provided to the parties with this Order.)

II. FACTUAL BACKGROUND

On December 20, 2010, the Petitioner underwent a crown buildup on tooth #30 and the charge for this treatment was \$297. Guardian denied coverage for the crown.

The Petitioner appealed Guardian's denial through its internal grievance procedure. Guardian upheld its determination and issued its final adverse determination in a letter dated April 7, 2011.

III. ISSUE

Did Guardian correctly deny coverage for Petitioner's crown buildup under the terms of the certificate of coverage?

IV. ANALYSIS

Petitioner's Argument

In the request for external review, XXXXX wrote that the tooth "had a very large filling along with many fracture lines which required a crown buildup to stabilize the tooth before a crown could be put on."

Respondent's Argument

In its final adverse determination Guardian denied coverage stating:

On 02/22/11 your claim for the build up on [tooth] #30 was received. Coverage for these services was denied. A licensed dentist has reviewed the clinical information submitted and determined that this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown. . . .

Commissioner's Review

The certificate of coverage, page 58, describes the coverage for the dental services the petitioner received:

Major Restorative Services

Crowns, inlays, onlays, labial veneers, and crown buildups are covered only when needed because of decay or *injury*, and only when the tooth cannot be restored with amalgam or composite filling material. . . .

The question of whether it was medically necessary to place a crown on tooth #30 was presented to an independent medical organization (IRO) for analysis, as required by Section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer assigned to this case is a licensed dentist in active practice who is a member of the American Dental Association. The reviewer examined x-rays, dental records, and all documentation presented by both parties. The reviewer's report includes the following analysis:

Inspection of the pre-operative radiographs displays sufficient tooth structure for the placement of a crown. The provider states that the enrollee had ‘a large filling and many fracture lines. . . .’ The radiographs supplied do show fracture lines in the enamel both buccally and lingually; however, this is seen quite often in teeth restored with amalgam restorations due to the expansion properties of the silver amalgam. Fracture lines do not represent a loss of tooth structure. In fact, stress fractures and large old restorations are the reasons Crowns (full coverage restorations) are performed. The necessity of a buildup should be based only on the amount of remaining tooth structure. Repairs to existing tooth structure, bonding in and around stress fractures, and filling in spaces created by removing existing restorations to provide crown form, should not be considered a buildup. Therefore, a crown buildup for tooth #30 was not dentally necessary in this enrollee’s case.

The Commissioner is not required in all instances to accept the IRO’s recommendation. However, a recommendation from the IRO is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite “the principal reason or reasons why the Commissioner did not follow the assigned independent review organization’s recommendation.” MCL 550.1911(16)(b). The IRO’s analysis is based on experience, expertise, and professional judgment. The Commissioner can discern no reason why the IRO’s recommendation should be rejected in the present case.

The Commissioner finds that Guardian’s denial of coverage for a crown buildup on tooth #30 is consistent with the terms of the certificate.

V. ORDER

The Commissioner upholds Guardian Life Insurance Company’s April 7, 2011, final adverse determination. Guardian is not responsible for providing coverage for the crown buildup on tooth #30.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.